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October 27, 2004

Ms Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Dockets 02-33 and 01-337

Dear Ms Dortch:

This is to notify you that BellSouth sent the attached letter to Chairman Michael Powell today.

Pursuant to Commission rules, please include this notice in the record of the proceedings identified above. Please contact me if you should have any question in this matter.

Sincerely,



Attachment

cc: Christopher Libertelli  
Matthew Brill  
Jessica Rosenworcel  
Daniel Gonzalez  
Scott Bergman  
Jeffrey Carlisle  
Michelle Carey  
Thomas Navin

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October 27, 2004

The Honorable Michael K. Powell  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

Re: *Petition of BellSouth Telecommunications, Inc. for Forbearance*

Dear Chairman Powell:

The Commission's recent broadband orders provide an important boost to the continued and more rapid deployment of broadband networks and capabilities to consumers throughout the country. Although much of the Internet hype centers on cutting edge applications and services like VoIP, consumers will only see the benefits of such innovations to the extent they have robust broadband network connections. The Commission's fiber-to-the-curb and section 271 unbundling orders recognize this compelling need for promoting broadband infrastructure by clearing away some of the regulatory obstacles to investment. By doing so, you and your fellow Commissioners have helped pave the way for every American to enjoy a robust broadband future, and BellSouth will be significantly increasing the reach of its fiber-to-the-curb network as a direct result of these orders.

Other regulatory obstacles to broadband deployment remain, however. One important obstacle - the *Computer Inquiry* rules - is of a prior Commission's making. They could be, and should be, quickly swept aside. These rules were put in place two decades ago in a one-wire, narrowband telephone world. As this Commission concluded two years ago, they have no place in today's environment. There, this Commission declared it would not apply these outdated regulations to cable broadband providers. However, these same harmful rules continue to be imposed on other providers of broadband service. It makes no sense for Commission rules to handicap broadband providers seeking to compete, when they do not apply to the broadband market leader. This is particularly true where, as here, such rules hinder broadband deployment and do not serve any public interest.

Despite the urgency of reaching our national broadband goals, I understand that the *Brand X* decision, including the appeal to the Supreme Court, may be further delaying Commission action. Unfortunately, technology does not wait for the judicial process to run its course. Without quick action from the Commission, the United States will fall further and further behind, and the President's broadband goals will be impossible to achieve.

To help in achieving the President's goals, BellSouth is filing today a forbearance petition that focuses on removing two additional obstacles to broadband innovation and deployment. First, the petition seeks forbearance from the Commission's *Computer Inquiry* rules. Second, the petition requests that the Commission forbear from Title II common-carriage requirements that might otherwise apply to telephone company broadband transmission. In exempting cable providers from these requirements, the Commission found these requirements to be against the public interest. The same is true here.

The Commission's *Computer Inquiry* rules and Title II common-carriage requirements that might otherwise apply to telephone company broadband transmission harm consumers. First, these regulations harm broadband customers directly by raising BellSouth's costs of providing broadband service over our networks, hampering our efforts to innovate and greatly delaying the roll-out of new services. It is important to understand that our broadband customers include not only consumer end-users, but also hundreds of ISPs that use our networks to serve their own customers. All our customers suffer from the application of these rules. Second, these rules harm every consumer by making the entire broadband market less competitive. Application of these outdated rules in the current environment effectively insulates cable companies from the most robust facilities-based broadband competition possible. True facilities-based competition will provide the greatest competitive benefits to broadband customers, and those customers lose when regulatory burdens are skewed in a way that protects the market leaders and handicaps investment and innovation from those seeking to compete.

As you know, the United States currently trails in both the deployment and capacity of our broadband networks and may be falling further behind. President Bush observed that:

a proper role for the government is to clear regulatory hurdles so those who are going to make investments do so. Broadband is going to spread because it's going to make sense for private sector companies to spread it so long as the regulatory burden is reduced -- in other words, so long as policy at the government level encourages people to invest, not discourages investment.

Granting BellSouth's petition would mark another important step in the Commission's effort to increase competition in the broadband market and would create

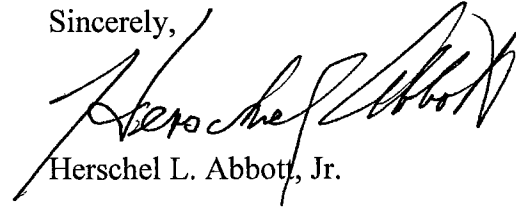
The Honorable Michael K. Powell

October 27, 2004

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further incentives to invest in the broadband infrastructure necessary to meet the country's broadband goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Herschel L. Abbott, Jr.", written in a cursive style.

Herschel L. Abbott, Jr.

HLAJr:kjw

cc: Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin  
Commissioner Jonathan S. Adelstein  
Jeffrey Carlisle

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